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IN RE: FACEBOOK, INC. CONSUMER
PRIVACY USER PROFILE LITIGATION,

This document relates to:

ALL ACTIONS

CASE NO. 3:18-MD-02843-VC

**FACEBOOK, INC.’S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
SPECIAL MASTER’S JUNE 16, 2022
ORDER REGARDING PRODUCTION OF
ADI RELATED DOCUMENTS**

Pursuant to Civil Local Rules 7-11 and 79-5, Facebook, Inc. (“Facebook”) hereby submits this Administrative Motion To File Under Seal the Special Master’s June 16, 2022 Order Regarding Production Of ADI Related Documents (the “Order”). Facebook’s proposed redactions are limited to the names of Facebook’s consulting experts, which the Court has previously found good cause to seal.

I. Background

On June 16, 2022, Special Master Garrie issued the Order regarding whether Facebook’s consulting experts related to the App Developer Investigation (“ADI”) should be compelled to produce documents. The Order contains the names of Facebook’s consulting experts retained to provide professional services for ADI—confidential and competitively sensitive information that the Court has previously sealed. *See* Dkts. 737, 764, 836, 837, 838, 839, 891. Facebook now submits this Administrative Motion to permanently seal the names of Facebook’s consulting experts within the Order.

II. The Good Cause Standard Applies Because The Motion Is Unrelated To The Merits

When a party seeks to seal judicial records related to the merits of a case, there is a “strong presumption in favor of” public access to the records. *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). But this high standard does not apply where, as here, the information a party seeks to seal is “unrelated or only tangentially related to the merits of a case.” *Doe v. Walmart, Inc.*, 2019 WL 636362 at * 1 (N.D. Cal. Feb. 11, 2019); *see also Kamakana*, 447 F.3d at 1179 (“[T]he public has less of a need for access to court records attached only to non-dispositive motions because those documents are often unrelated, or only tangentially related, to the underlying cause of action.). Instead, courts seal information in non-dispositive motions so long as there is good cause to do so because public disclosure of the information would cause harm or prejudice, and the request is narrowly tailored. *Walmart*, at *1-*2. Here, the Order is related to a dispute regarding the scope of production of documents, not the merits of this action, so the good cause standard applies.

III. There Is Good Cause To Seal The Names Of Facebook's Consulting Experts

Facebook asks the Court to permanently seal the names of two consulting experts retained by Gibson Dunn to provide professional services related to ADI. If the names of these consulting experts were disclosed publicly, competitors would have access to confidential information regarding Facebook's business relationships with third-party experts, which could undermine Facebook's business relationships with third-party vendors and cause Facebook competitive harm. Southwell Decl. ¶ 10. The Court previously found good cause to seal this exact same confidential and competitively sensitive information in numerous filings. Dkts. 737, 764, 836, 837, 838, 839, 891.

Facebook's proposed redactions are narrowly tailored because the redactions are limited to only the names of Facebook's consulting experts, which the Court has previously found narrowly tailored. Dkts. 737, 764, 836, 837, 838, 839, 891; *see Dunbar v. Google, Inc.*, 2013 WL 12216625, at *1 (N.D. Cal. Aug. 18, 2014) (granting sealing requests that were "narrowly tailored to protect . . . proprietary information").

* * *

For these reasons, Facebook respectfully requests that the Court permanently seal the names of Facebook's consulting experts contained within the Order.

Dated: June 24, 2022

GIBSON, DUNN & CRUTCHER, LLP

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